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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,065	07/13/2000	Noeman Understein	2802-5 (AMK)	7218
23117 7590 03/30/2011 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER GREENE, DANIEL LAWSON				
ART UNIT		PAPER NUMBER		
3667				
MAIL DATE		DELIVERY MODE		
03/30/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

09/617,065

Applicant(s)

UNDERSTEIN, NORMAN

Examiner

DANIEL L. GREENE JR.

Art Unit

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/C2.06)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicants 1/24/2011 response to the 11/23/2010 Board decision has been considered and entered. An action on the merits of claims 1-8 follows.
2. The earliest possible effective filing date is May 10, 1999 (5/10/1999).

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 1/24/2011 has been entered.

Response to Amendment

4. Applicant's arguments, see pages 6-8, filed 1/24/2011, with respect to the rejection(s) of claim(s) 1-8 under 35 USC 102(b) over Walker have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of U.S. Patent 5,703,344 to Bezy et al. (Bezy) as set forth below.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Currently claim 8 recites a computer program embodied on a computer readable medium. According to the specification as filed a computer readable medium connoted more than is currently recognized as patentable material, i.e. signals per se. Signals are not statutory matter.

Amending the claims to recite a non-transitory computer readable medium should overcome this rejection.

Claim Rejections - 35 USC § 102

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-3, -8 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,703,344 to Bezy et al. (Bezy).

Regarding claims 1, 7 and 8 Bezy teaches a system to effect the method embodied on a non-transitory computer readable medium of qualifying a participant over a global network in a transaction requiring a transfer of funds from the participant using a qualifying system, the method comprising:

(a) the participant establishing a consumer funding account by depositing funds in the consumer funding account, the consumer funding account to be administered by the qualifying system in, for example, Col. 3, lines 17-37, especially lines 35-37 "...a deposit

into an account controlled by the payee and maintained by a solvent...financial institution.”;

(b) the participant entering a transaction requiring a transfer of funds from the participant to a vendor in for example, Col. 3, lines 40-44;

(c) the qualifying system reserving a portion of the funds deposited in the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor in for example, Col. 3, lines 55+, especially lines 63-65 “...place a hold in real-time on the funds necessary to cover the draft...”,

wherein an available balance in the consumer funding account consists of an amount of unreserved funds from the funds deposited in the consumer funding account in for example, Col. 5, lines 11-19, etc; and

(d) the qualifying system qualifying the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter.

Regarding claim 3 and the limitation wherein the transaction parameter is an amount of funds required to complete the transaction see for example, Col. 5 lines 48-59, “...the amount...”.

Regarding claim 5 and the limitation further comprising releasing the reserved portion of the consumer funding account when the transaction is completed see for example, Col 5, lines 11-19, “A hold is removed when a draft corresponding to the hold is presented for clearing.”

Regarding claim 6 and the limitation wherein step (c) is practiced by querying a network website server that maintains the consumer funding account see for example, Figures 1 and 2, items 130, S3, Col. 4, lines 14-30, Col. 5, lines 1-10, etc. wherein TCP/IP protocols are set forth and it is understood that “many variations of the invention will become apparent to those of skill in the art”. That is, the invention is applicable to website servers and personal computing devices as these are all merely extensions of the computer network.

Claim Rejections - 35 USC § 103

9. **Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,703,344 to Bezy et al. as applied to claims 1, 3 and 5-8 above and further in view of U.S. Patent 3,147,028 to Scully issued in 1964.**

Regarding claims 2 and 4, Bezy discloses the application as claimed and explained above.

Although Bezy teaches reserving a portion of a consumer funding account and calculating whether there are sufficient or insufficient funds for said account, Bezy does not appear to expressly disclose the old and well known practice of reserving a first portion of the funds deposited in the consumer funding account corresponding to a “required deposit” or incorporating this amount into a total reserved portion of an account. However, Bezy does teach that the available balance is the amount not already reserved for some purpose.

Within the art of maintaining checking accounts, Scully teaches it is notoriously old and well known for “special checking accounts” to require a minimum balance in, for example, Col. 1, lines 10-25 and to take into account these amounts “to correct errors in the depositors book-keeping” and promote “accurate book-keeping”. The Examiner construes a minimum balance to connote the claimed “required deposit” because, for example, the “special checking account” could not be opened without the required minimum balance which would be provided by a “minimum deposit”.

Therefore, at the time of the invention it would have been obvious to one of ordinary skill in the art to modify Bezy with the old and well known practice of keeping track of minimum balances (or minimum deposits) as taught by Sully. Such a modification provides Bezy with an “accurate total amount of funds available” from any specific account that has minimum balance requirements in order to maintain or create said account because said minimum account balance must remain within the account in order to maintain its status and therefore it is reserved and must remain so.

Accordingly, Bezy as modified by Scully above teaches step (c) the qualifying system reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system, the participant or the vendor, wherein step (c) is practiced by reserving a first portion of the funds deposited in the consumer funding account **corresponding to a required deposit** (minimum account balance) and reserving a second portion of the funds deposited in the consumer funding account corresponding to an amount of funds required to complete the transaction,

wherein an available balance in the consumer funding account consists of an amount of unreserved funds from the funds deposited in the consumer funding account.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL L. GREENE JR. whose telephone number is (571)272-6876. The examiner can normally be reached on Mon-Thur.
11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ella Colbert/
Primary Examiner, Art Unit 3694

/D. L. G./
Examiner, Art Unit 3694